Supreme Court No. 90781-1
COA No. 44147-1-II

IN THE SUPREME COURT OF THE STATE OF WASHINGTON

STATE OF WASHINGTON,

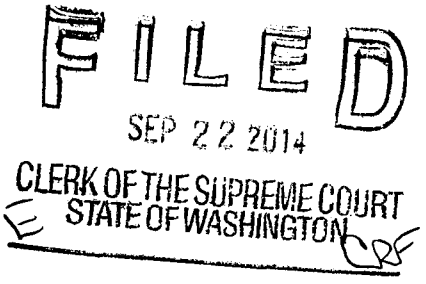
Respondent,

v.

BRIAN BUCKMAN,

Petitioner.

PETITION FOR REVIEW



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A. IDENTITY OF PETITIONER

Petitioner Brian Buckman, the appellant below, asks this Court to review the decision of the Court of Appeals referred to in section B.

B. COURT OF APPEALS DECISION

Buckman seeks review of Division Two's order denying his motion to modify, filed August 18, 2014.

C. ISSUE PRESENTED FOR REVIEW

The petitioner submits that he was denied the effective assistance of counsel under Washington Constitution, Article 1, § 22 and United States Constitution, Sixth Amendment when his trial counsel stipulated to a series of alleged violations that resulted in the revocation of his Special Sex Offender Sentencing Alternative. RAP 13.4(b)(3); RAP 13.4(b)(4).

D. STATEMENT OF THE CASE

The facts of this case are contained in the previously filed opening brief and personal restraint petition and incorporated by reference.

On appeal, the appellant argued that he was denied the effective assistance of counsel when his attorney stipulated to

commission of five alleged violations. He also raised several issues in a separately filed personal restraint petition.

The Court consolidated the personal restraint petition and the direct appeal, and rejected Buckman's argument and dismissed the personal restraint petition. For the reasons set forth below, he seeks review of the revocation from SSOSA due to the claim of ineffective assistance of counsel and claims contained in his personal restraint petition.

E. ARGUMENT

THE COURT ERRED IN DENYING THE MOTION TO MODIFY AND BY AFFIRMING THE SSOSA REVOCATION

Under the Sixth Amendment and Article I, Section 22 of the Washington State Constitution, a criminal defendant is guaranteed the right to the effective assistance of counsel at every critical stage of the proceeding. *United States v. Cronic*, 466 U.S. 648, 658-59, 104 S. Ct. 2039, 80 L. Ed. 2d 657 (1984); *In re Davis*, 152 Wn.2d 647, 672, 101 P.3d 1 (2004); *State v. Roberts,* 142 Wn.2d 471, 515, 14 P.3d 713 (2000). Critical stages are those steps of the proceeding that hold significant consequences for the accused. *Bell v. Cone*, 535 U.S. 685, 695-96, 122 S. Ct. 1843, 152 L. Ed.2d

914 (2002). Sentencing is a critical stage. *State v. Everybodytalksabout*, 131 Wn. App. 227, 236, 126 P.3d 87 (2006); *State v. Robinson*, 153 Wn.2d 689, 694, 107 P.3d 90 (2005).

SSOSA revocation hearings are a form of sentencing because they can result in a modification to a defendant's sentence, as occurred here. SSOSA revocation hearings also hold significant consequences for the accused because they have the potential to result in the defendant being moved from community custody into total confinement. RCW 9.94A.670(10). As such, a defendant is entitled to effective assistance of counsel at a SSOSA revocation hearing.

Here, Buckman seeks modification of the ruling by the Court denying the motion to modify the Court Commissioner and affirming the revocation and dismissing his personal restraint petitions.

Mr. Buckman has set forth his arguments regarding revocation in his brief, at pages 5 through 7, and in his separately-filed personal restraint petitions, and are incorporated herein by reference.

Buckman was denied the effective assistance of counsel at his revocation hearing. Defense counsel stipulated to the violations alleged by the State and did not advocate for an alternative

sanction. Under RCW 9.94A.670(11), the trial court may revoke a SSOSA sentence at any time during the period of community custody and order execution of the sentence if (1) the defendant violates the conditions of his suspended sentence; or (2) the court finds that the defendant is failing to make satisfactory progress in treatment. The court retains its discretion, however, to sanction a violation other than by revocation of the SSOSA. *State v. Kistner,* 105 Wn. App. 967, 972 n.9, 21 P.3d 719 (2001). Under RCW 9.94B.040, the court may instead impose a number of other sanctions, including: 60 days of confinement for each violation, work release, home detention with electronic monitoring, work crew, community restitution, inpatient treatment, daily reporting, curfew, educational or counseling sessions, supervision enhanced through electronic monitoring, jail time, or other sanctions available in the community. The State bears the burden of proving a defendant's noncompliance by a preponderance of the evidence. *State v. Woodward*, 116 Wn. App. 697, 67 P.3d 530 (2003); RCW 9.94B.040(3)(c).

Buckman's defense counsel stipulated to the violations, and did not advocate for a sixty day sentence for each violation or other sanction as authorized by RCW 9.94B.040. RP (10/10/12) at 7-8.

Instead, counsel resorted to "begging for one more chance" on the amorphous grounds that his client was "young and stupid," rather than either challenging the violations directly or asking for a sixty day sentence for each offense or other sanction short of revocation. RP (10/10/12) at 7-8.

Buckman was prejudiced by his attorney's deficient performance. First, by conceding to the allegations, Buckman lost any opportunity to seek a concession from the prosecution (such as a recommendation to modify the suspended sentence by lowering his minimum term). Second, Buckman's counsel did not ask the court to mitigate the penalty in any way—either by imposing additional time in jail without revoking the suspended sentence, or lowering his minimum term. When Buckman's counsel conceded to the five allegations and did not argue for mitigation, he received no benefit whatsoever. RP (10/10/12) at 7-8.

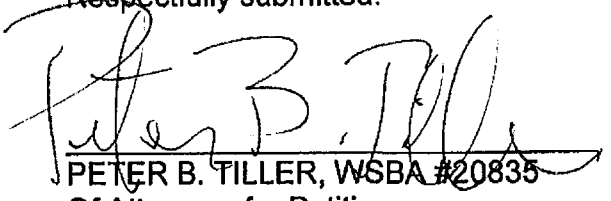
Buckman submits that the Court's ruling affirming the revocation and in dismissing the personal restraint petition, overlooked this argument and is in error.

F. CONCLUSION

For the foregoing reasons, Buckman respectfully requests this petition for review be granted.

DATED this 17th day of September, 2014.

Respectfully submitted:



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IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON

DIVISION II

THE STATE OF WASHINGTON,

Respondent,

v.

BRIAN BUCKMAN,

Appellant.

Consol. Nos. 44147-1-II
45472-6-II

RULING GRANTING MOTION ON THE MERITS TO AFFIRM AND DISMISSING PERSONAL RESTRAINT PETITION

Brian Buckman appeals the superior court's revocation of his Special Sex Offender Sentencing Alternative (SSOSA). Pursuant to RAP 18.14(a)[1] and RAP 18.14(e)(1),[2] this court affirms. Pursuant to Court of Appeals Division Two General

[1] RAP 18.14(a) provides in part:

> The appellate court may, on its own motion or on motion of a party, affirm or reverse a decision or any part thereof on the merits in accordance with the procedures defined in this rule.

[2] RAP 18.14(e)(1) provides:

> A motion on the merits to affirm will be granted in whole or in part if the appeal or any part thereof is determined to be clearly without merit. In making these determinations, the judge or commissioner will consider all relevant factors including whether the issues on review (a) are clearly controlled by settled law, (b) are factual and supported by the evidence, or (c) are matters of judicial discretion and the decision was clearly within the discretion of the trial court or administrative agency.

Order 2001-1,[3] this court dismisses Buckman's consolidated Personal Restraint Petition (PRP).

FACTS

On October 25, 2011, the town of Winlock's police chief and a social worker met with then 14-year-old K.B.S. (D.O.B. 11/8/1996) at Winlock High School to discuss her relationship with Buckman (D.O.B. 11/19/1992). K.B.S. disclosed that Buckman was her boyfriend and that they first had intercourse in June 2010, when KBS was 13 years old and Buckman was 17 years old.

On November 1, 2011, the State charged Buckman with second degree rape of a child.[4] He pleaded guilty. His statement on plea of guilty states that:

> On or about June 2010, I had sexual intercourse with my girlfriend, KBS (DOB 11/8/96) we were not married, and I am more than 36 mos older than her.

Clerk's Papers (CP) at 11. In March 2012, the trial court granted Buckman a SSOSA over the State's objection.[5] The SSOSA imposed a variety of conditions, including that

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[3] General Order 2001-1 provides, in relevant part:

> It is ORDERED . . . if a personal restraint petition is consolidated with an appeal, and that appeal is considered by a commissioner of this court pursuant to RAP 18.14, the commissioner will also consider the merits of the petition. If the commissioner determines that the petition is frivolous, the commissioner shall dismiss the petition. If the commissioner determines that the petition is not frivolous, the commissioner will sever it and refer it to a panel of judges.

[4] RCW 9A.44.076 provides:

> (1) A person is guilty of rape of a child in the second degree when the person has sexual intercourse with another who is at least twelve years old but less than fourteen years old and not married to the perpetrator and the perpetrator is at least thirty-six months older than the victim.

Buckman comply with community custody conditions after his release from custody, such as reporting regularly to a Community Corrections Officer (CCO), refraining from criminal activity, and not having contact with K.B.S. Between July and August 2012, Buckman either failed to report to his CCO or reported late multiple times. The CCO requested 30 days' confinement as a sanction. On September 11, 2012, based on the CCO's report, the State moved to revoke Buckman's SSOSA.

On October 3, 2012, the State filed a supplemental petition to revoke Buckman's SSOSA. The State alleged that in September 2012, Buckman both contacted K.B.S. in person and attempted to contact her through a third party. The State further alleged that Buckman sold heroin to a confidential informant during the week of September 3, 2012, that he failed to register as a sex offender, and that he made admissions during jail telephone calls and to law enforcement that he continued to use heroin.

On October 10, 2012, the trial court held a revocation hearing. Buckman admitted to the violations. Buckman requested that the judge give him a second chance and allow him to continue with his SSOSA. Specifically, through counsel he argued:

> The young and stupid argument[6] is what we are presenting to the Court. He's only been out a couple of months, but there's -- obviously, there's not

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[5] A trial court may impose a SSOSA sentence, which suspends the sentence for a first time sex offender, if the offender is proven to be amenable to treatment. RCW 9.94A.670(3); *State v. Dahl*, 139 Wn.2d 678, 682, 990 P.2d 396 (1999). Under a SSOSA, the offender is released into community custody and receives up to three years of inpatient or outpatient sexual deviancy treatment. *Dahl*,139 Wn.2d at 683.

[6] Immediately prior to this statement, the State argued, "But I think most importantly, even if the Court thinks about all this and says, well, he's young, maybe he needs a second chance, I think the bottom line here is . . . whether or not he actually can be successful in the program." RP Oct. 10, 2012 at 6-7.

> been the followthrough [sic] that was needed. And, unfortunately, I think the success will come when he starts the program and gets the structure there. He tells me he got out and was feeling lost . . . Because he just didn't do anything, it allowed him to fall back into some of the bad habits . . . While he's been in custody, he's been doing some soul searching. He's going to be begging for a second chance to get things done. . . . So he is begging the Court for one more chance.

Report of Proceedings (RP) (Oct. 10, 2012) at 7-8. Buckman also presented a personal plea to the court, stating in part:

> I beg for another chance. I'm young and at times can be really dumb. I need to surround myself with those that are positive and trust my family and know that they are there for me when I seem to be struggling or going through hard times. . . . I beg you to allow me to fix this while I'm still young and get my life -- wait. I beg you to allow me to fix this while I'm still young and got my life ahead of me. And once again, I'm sincerely sorry.

RP (Oct. 10, 2012) at 9-10. On October 10, 2012, the trial court revoked Buckman's SSOSA and sentenced him to 114 months minimum to life in prison. Buckman appeals and submits a Statement of Additional Grounds (SAG). Buckman additionally filed a PRP, which this court consolidated with his direct appeal (Case No. 45472-6).

ANALYSIS

Direct Appeal of SSOSA Revocation

In his direct appeal, Buckman argues that he received ineffective assistance of counsel at his SSOSA hearing when he admitted to the violations and failed to ask to be sanctioned in lieu of revocation.

This court's "scrutiny of defense counsel's performance is highly deferential and employs a strong presumption of reasonableness." *State v. Humphries*, 170 Wn. App. 777, 797, 285 P.3d 917 (2012), *review granted*, 177 Wn.2d 1007 (2013); *Strickland v. Washington*, 466 U.S. 668, 689, 104 S. Ct. 2052, 80 L. Ed. 2d 674 (1984); *State v.*

McFarland, 127 Wn.2d 322, 335-36, 899 P.2d 1251 (1995) An appellant claiming ineffective assistance of counsel must show, first, that counsel's performance fell below an objective standard of reasonableness, and second, "a reasonable probability that the outcome of the trial would have been different absent counsel's deficient performance." *Humphries*, 170 Wn. App. at 797, 285 P.3d 917; *Strickland*, 466 U.S. at 694; *State v. Thomas*, 109 Wn.2d 222, 226, 743 P.2d 816 (1987). Failure to meet either prong of this test defeats a showing of ineffective assistance of counsel. *Humphries*, 170 Wn. App. at 797, 285 P.3d 917; *Strickland*, *466* U.S. at 697.

"If trial counsel's conduct can be characterized as legitimate trial strategy or tactics, it cannot serve as a basis for a claim that the defendant received ineffective assistance of counsel." *State v. McNeal*, 145 Wn.2d 352, 362, 37 P.3d 280 (2002); *State v. Adams*, 91 Wn.2d 86, 90, 586 P.2d 1168 (1978). To rebut the strong presumption that counsel's performance was effective, the defendant bears the burden of establishing the absence of any "'conceivable legitimate tactic explaining counsel's performance.'" *State v. Grier*, 171 Wn.2d 17, 33, 246 P.3d 1260 (2011) (quoting *State v. Reichenbach*, 153 Wn.2d 126, 130, 101 P.3d 80 (2004)).

The trial court may "revoke the suspended [SSOSA] sentence at any time during the period of community custody and order execution of the sentence if: (a) The offender violates the conditions of the suspended sentence, or (b) the court finds that the offender is failing to make satisfactory progress in treatment." RCW 9.94A.670(11); *Dahl*, 139 Wn.2d 678, 683, 990 P.2d 396 (1999). The State bears the burden of proving a SSOSA violation by a preponderance of the evidence. *State v. Woodward*, 116 Wn.

App. 697, 702, 67 P.3d 530 (2003). The court retains the discretion to sanction the defendant rather than revoke the SSOSA, if appropriate. *State v. Partee*, 141 Wn. App. 355, 362, 170 P.3d 60 (2007). This court will not disturb the revocation of a suspended sentence absent an abuse of discretion. *State v. Badger*, 64 Wn. App. 904, 908, 827 P.2d 318 (1992).

With respect to Buckman's admissions, it was a legitimate trial strategy to argue that Buckman committed the violations because he was "young and stupid" and ask the court to continue Buckman's SSOSA. RP (Oct. 10, 2012) at 7-10. *Grier*, 171 Wn.2d at 33. In addition, Buckman cannot show that he was prejudiced by the admissions. The State submitted documentation in support of its allegations and indicated it was prepared to present witnesses to prove them.

With respect to Buckman's argument that his attorney failed to argue for lesser sanctions, he fails to establish a reasonable probability that the court would not have revoked his SSOSA even if his counsel requested the lesser sanction of 60 days in jail for each new offense. The superior court was highly disturbed that Buckman not only failed to report to his CCO, but also then "positively violated a whole series of prohibitions, several of which would be new crimes if they were being prosecuted." *See* RP (Oct. 10, 2012) at 11. It concluded that "anyone would be" revoked. *See* RP (Oct. 10, 2012) at 11. Accordingly, his ineffective assistance of counsel claim fails.

Statement of Additional Grounds

Buckman filed a Statement of Additional Grounds (SAG) and a supplemental SAG. He raises the following issues in his SAG: (1) he should be allowed to withdraw

his plea because he should have been charged and sentenced as a juvenile; (2) the adult division of the superior court lacked jurisdiction over him; (3) a speedy trial violation based on the delay between the date he allegedly committed the crime (June 2010) and October 2011, when the crime was investigated; (4) a due process violation due to the same delay; (5) prosecutorial misconduct by charging Buckman as an adult and due to the charging delay; and (6) ineffective assistance of trial counsel for failing to move to suppress evidence submitted at the revocation hearing, for counseling Buckman to admit to the violations, for failing to ask for an alternative disposition, and for failing to argue that Buckman was a juvenile when the crime occurred.

In his supplemental SAG, Buckman "adds" to his jurisdictional argument. He also submits that he never harmed the victim and quotes portions of the testimony of the victim's mother. He additionally argues that he lacked a sufficient record to prepare his SAG because he lacks documentation of his arrest in October 2011 that led to the investigation of his relationship with the victim. He further argues that an officer involved in the original investigation had a conflict of interest.

Buckman's argument that he received ineffective assistance of counsel in his revocation hearing was raised by appellate counsel and has been addressed herein. Buckman's remaining claims raise issues surrounding his original guilty plea and the trial court's imposition of the SSOSA sentence, not the later revocation. The original judgment and sentence entered on March 7, 2012, however, is not the subject of the

present appeal.[7] And Buckman's time to directly appeal the original judgment and sentence has passed. RAP 5.2(a); *see Griffin v. Draper*, 32 Wn. App. 611, 616, 649 P.2d 123, *review denied*, 98 Wn.2d 1004 (1982) ("an appeal from a final order after judgment does not bring up for review the judgment previously entered"). Thus, this court will not reach the merits of these issues.

Personal Restraint Petition

Buckman filed a PRP in September 2013, which this court consolidated with his direct appeal. Like many of his SAG arguments, the claims Buckman raises in his PRP directly or indirectly challenge his original plea and the imposition of the SSOSA, not the revocation. Specifically, he raises three grounds: (1) a violation of due process due to the State's delay in charging him until he was an adult, in order to circumvent the juvenile justice system; (2) that the superior court lacked jurisdiction over the criminal case because Buckman was a juvenile at the time of the crime; and (3) ineffective assistance of counsel primarily related to the superior court's lack of jurisdiction.

The trial court, however, entered the original judgment and sentence on March 7, 2012, over one year before Buckman filed his PRP. *See* RCW 10.73.090 (one year time limit on collateral attack). Nevertheless, because Buckman's PRP grounds all relate to his assertion that the superior court lacked jurisdiction over Buckman when he was prosecuted as an adult for a crime he committed as a juvenile, the court will not dismiss them as time barred without first examining the superior court's jurisdiction.

[7] Buckman did not designate the March 2012 judgment and sentence in his notice of appeal nor has he requested permission to file a late appeal.

RCW 10.73.090 (requirement that judgment and sentence be "rendered by a court of competent jurisdiction" for time bar to apply); RCW 10.73.100 (exception to time bar if "[t]he sentence imposed was in excess of the court's jurisdiction").

Generally, to be entitled to relief on a PRP, a petitioner must show either constitutional error that resulted in actual and substantial prejudice or nonconstitutional error that resulted in a complete miscarriage of justice. *In re Personal Restraint of Cook*, 114 Wn.2d 802, 810-13, 792 P.2d 506 (1990). Additionally, Buckman must support his claims of error with a statement of the facts on which his claim of unlawful restraint is based and the evidence available to support his factual allegations. RAP 16.7(a)(2); *In re Personal Restraint of Williams*, 111 Wn.2d 353, 365, 759 P.2d 436 (1988); *see also Cook*, 114 Wn.2d at 813-14. The petitioner must state with particularity facts, which, if proven, would entitle him to relief, and must present evidence showing his factual allegations are based on more than mere speculation, conjecture, or inadmissible hearsay. *In re Personal Restraint of Rice*, 118 Wn.2d 876, 886, 828 P.2d 1086, cert. *denied*, 506 U.S. 958 (1992). "[A] mere statement of evidence that the petitioner *believes* will prove his factual allegations is not sufficient." *Rice*, 118 Wn.2d at 886. "If the petitioner's evidence is based on knowledge in the possession of others, he may not simply state what he thinks those others would say, but must present their affidavits or other corroborative evidence." *Rice*, 118 Wn.2d at 886. Division II General Order 2001-1 permits a commissioner of this court to dismiss a frivolous PRP when it has been consolidated with a motion on the merits.

With respect to his first ground for relief, Buckman argues that the State violated his due process rights when it delayed charging him with second degree rape of a child because the delay caused Buckman to be prosecuted as an adult for a crime he committed as a juvenile. The State's preaccusatorial delay resulting in a loss of juvenile court jurisdiction can violate a defendant's due process rights. Although there is no constitutional right to be tried as a juvenile, *see State v. Dixon*, 114 Wn.2d 857, 860, 792 P.2d 137 (1990), our courts presume prejudice when the State's preaccusatorial delay results in a loss of juvenile court jurisdiction. *State v. Brandt*, 99 Wn. App. 184, 189, 992 P.2d 1034, *amended*, 9 P.3d 872 (2000).

To determine whether the State's prejudicial preaccusatorial delay violates due process, this court examines the State's justification for the delay. A preaccusatorial delay may violate due process in only two circumstances: (1) "a deliberate delay by the State to circumvent the juvenile justice system[8]" or (2) "a negligent delay in filing." *Dixon,* 114 Wn.2d at 865; *State v. Lidge*,111 Wn.2d 845, 848, 765 P.2d 1292 (1989). "[A]bsent a showing of deliberate or negligent delay on the part of the State which results in a loss of juvenile court jurisdiction, a juvenile's right to due process is not violated." *Dixon*, 114 Wn.2d at 866.[9]

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[8] Here, the trial court concluded that there was no "malice" in the State's delay. RP Mar. 7, 2012 at 15.

[9] The analysis of preaccusatorial delay is often stated as a three-part test: "(1) the defendant must show prejudice resulting from the delay; (2) the court must consider the reasons for the delay; and (3) if the State can justify the delay, the court will [balance] the State's interest against the prejudice to the accused." *Brandt*, 99 Wn. App. at 188 (quotation omitted.). However, as prejudice is assumed, the analysis becomes a two-

The State submits documentation that Child Protective Services received a call from a Napavine police officer on October 24, 2011, relaying information that the officer discovered the relationship between Buckman and K.B.S. during a theft investigation.[10] The next day, the Winlock police chief met with K.B.S., and the State charged Buckman eight days after the CPS call. In light of these facts demonstrating that the State acted to charge Buckman within days of learning of the relationship and the trial court's conclusion that the State did not maliciously delay proceedings, there is no support for Buckman's argument that the preaccusatorial delay violated his due process rights. *Dixon*, 114 Wn.2d at 865.

Included in Buckman's assertion of delay is his argument that the superior court lacked jurisdiction over him and that he should have been charged in and tried by the juvenile court. RAP 16.4(c)(1). "'There is no constitutional right to be tried in a juvenile court.'" *In re Matter of Boot*,130 Wn.2d 553, 571, 925 P.2d 964 (1996) (quoting *Dixon*, 114 Wn.2d at 860), and a right to a hearing on juvenile versus adult court jurisdiction exists only when courts have statutorily authorized discretion to determine such jurisdiction. *Kent v. United States*, 383 U.S. 541, 86 S. Ct. 1045, 16 L. Ed. 2d 84 (1966); *Boot*, 130 Wn.2d at 570.

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part test. Further, the issue of the justification for the delay is often determinative. *See Dixon*, 114 Wn.2d at 866.

[10] Buckman states that he has no knowledge of a theft investigation and that he was arrested on October 23, 2011, "for a warrant of an old M.I.C. of Alcohol." Reply to Response to PRP at 1-2. Regardless of the circumstances of the discovery of his relationship with K.B.S., he acknowledges that the relationship was first discovered on October 23, 2011.

Juvenile courts have no jurisdiction over a defendant who is over 18 when the offenses are first reported and charged. *See* RCW 13.40.300(1); *State v. Dion*, 160 Wn.2d 605, 609, 159 P.3d 404 (2007) ("Whether a juvenile court has jurisdiction over a particular proceeding depends on when the State initiates proceedings . . ., not when the juvenile commits the offense."); *State v. Salavea*, 151 Wn.2d 133, 141-42, 86 P.3d 125 (2004) (jurisdiction over offenses committed by juvenile is determined when proceedings are commenced); *State v. Calderon*, 102 Wn.2d 348, 351-52, 684 P.2d 1293 (1984) (juvenile court had no jurisdiction because Calderon was over 18 when charge was filed and jurisdiction over an offense committed by a juvenile is determined at the time proceedings are initiated against the defendant). Buckman, thus, had no right to a hearing before the superior court heard his case as an adult. *See Boot*, 130 Wn.2d at 570-72.

Buckman's final PRP ground asserts that he received ineffective assistance of counsel because his attorney: (1) allowed the State to circumvent the juvenile court; (2) failed to argue that Buckman should be charged and sentenced as a juvenile; (3) failed to argue lack of jurisdiction; and (4) gave him faulty advice to plead guilty to an adult charge when Buckman committed the crime as a juvenile. For the reasons set out in this court's discussion of adult court jurisdiction, Buckman's claim of ineffective assistance fails. The State correctly charged Buckman and the superior court properly sentenced Buckman as an adult.

Buckman raises additional claims in his PRP reply,[11] filed pursuant to RAP 16.10(a)(2). This court will not consider issues raised for the first time in a reply brief. *State v. Pleasant*, 38 Wn. App. 78, 81, 684 P.2d 761, *review denied*, 103 Wn.2d 1006 (1984); RAP 10.3(c). Accordingly, it is hereby

ORDERED that this court's motion on the merits to affirm the SSOSA revocation is granted; it is further

ORDERED that Buckman's PRP is dismissed.

DATED this 25th day of June, 2014.

Aurora R. Bearse
Court Commissioner

cc: Peter Tiller
Sara Beigh
Hon. Nelson Hunt
Brian W. Buckman

[11] These issues include, for example, that Buckman should have been charged with third degree rape of a child, and that he did not enter a knowing, voluntary, and intelligent guilty plea.

IN THE COURT OF APPEALS
STATE OF WASHINGTON
DIVISION II

STATE OF WASHINGTON:	COURT OF APPEALS NO. 44147-1-II
	LEWIS COUNTY NO. 11-1-00775-2
BRIAN BUCKMAN,	CERTIFICATE OF E-FILING AND MAILING

The undersigned attorney for the Appellant hereby certifies that one copy of the Petition for Discretionary Review was e-filed to the Court of Appeals, Division 2, and copies were mailed to Brian W. Buckman, Appellant, and Sara Beigh, Deputy Prosecuting Attorney by first class mail, postage pre-paid on September 17, 2014, at the Centralia, Washington post office addressed as follows:

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TILLER LAW OFFICE

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Transmittal Letter

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Court of Appeals Case Number: 44147-1

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Answer/Reply to Motion: ____

Brief: ____

Statement of Additional Authorities

Cost Bill

Objection to Cost Bill

Affidavit

Letter

Copy of Verbatim Report of Proceedings - No. of Volumes: ____
Hearing Date(s): _____

Personal Restraint Petition (PRP)

Response to Personal Restraint Petition

Reply to Response to Personal Restraint Petition

Petition for Review (PRV)

■ Other: Petition for Discretionary Review

Comments:

No Comments were entered.

Sender Name: Shirleen K Long - Email: Slong@tillerlaw.com